

The Corporation of the City of Guelph

By-law Number (20XX) - XXXXX

A By-law of The Corporation of the City of Guelph for temporary seasonal patios for the 2020 patio season

WHEREAS the ongoing COVID-19 pandemic continues to evolve and is causing significant economic effects across the world and locally in Guelph;

AND WHEREAS since June 12, 2020, restaurants, bars and other commercial dining establishments in Guelph have been restricted by Provincial emergency health regulations from serving patrons indoors, but may seat dine-in customers on outdoor patio spaces, including temporary patios established on sidewalks, parking lots, and public rights-of-way;

AND WHEREAS by resolutions passed on June 17, 2020, Council has created an emergency temporary patio program, utilizing public and private outdoor spaces to temporarily expand outdoor dining capacity to assist local restaurants and bars to serve patrons while complying with Provincial health-related guidelines and protocols;

AND WHEREAS Guelph's Comprehensive Zoning By-Law (1995)-14864 (the "Zoning By-law") contains certain provisions in relation to outdoor patios, which provisions are inconsistent with Provincial directives in connection with temporary patios and which unduly restrict the purpose of maximizing the safe expansion of patios during the COVID-19 pandemic;

AND WHEREAS under section 39 of the Planning Act, as amended, the council of a local municipality may, in a by-law passed under section 34, authorize the temporary use of land, buildings and structures for any purpose set out therein that is otherwise prohibited by the by-law;

AND WHEREAS by Ontario Regulation 511/20, made under the Emergency Management and Civil Protection Act, as amended, the Province of Ontario has suspended various procedural requirements under section 39 of the Planning Act, as amended, to permit municipalities to efficiently enact temporary use by-laws in relation to temporary seasonal patios;

NOW THEREFORE the Council of The Corporation of the City of Guelph enacts as follows:

DEFINITIONS

1. In this By-law,
 - a) "Restaurant or Bar Patio" means an area that is not an enclosed public place or an enclosed workplace and that meets the following criteria:
 - i) The public is ordinarily invited or permitted access to the area, either expressly or by implication, whether or not a fee is charged for entry, or the area is worked in or frequented by employees during the course of their employment, whether or not they are acting in the course of their employment at the time.

- ii) Food or drink is served or sold or offered for consumption in the area, or the area is part of, or operated in conjunction with, an area where food or drink is served or sold or offered; and
 - iii) The area is not primarily a private dwelling.
- b) "Temporary Patio Program" means the outdoor temporary patio program created by resolutions of Council on June 17, 2020 and the rules and requirements thereof as are published on the City's Web site and/or agreed to by the proprietor of a Restaurant or Bar Patio pursuant to an agreement between the proprietor and the City;
 - c) "COVID-19 Health Measure" means any regulation, guideline, order, and/or directive published by the Ontario Ministry of Health and Long-Term Care, the Chief Medical Officer of Health, and/or by the Medical Officer of Health for Wellington-Dufferin-Guelph relating to the control of COVID-19.

TEMPORARY EXEMPTIONS

2. For the period from July 1, 2020 until October 31, 2020, a Restaurant or Bar Patio which has been approved by the City of Guelph through the Temporary Patio Program, and which operates in compliance with the requirements of the Temporary Patio Program and with COVID-19 Health Measures, shall be exempt from the following provisions of the Zoning By-Law:
 - a) Notwithstanding section 4.17.1 of the Zoning By-Law, a Restaurant or Bar Patio may exceed fifty percent (50%) of the licensed capacity of the Commercial Establishment, provided, however, that it may not exceed the temporary Provincial requirement of 1.11 square metres per person, nor the maximum capacity set by the Building Code (being O. Reg. 332/12, made under the Building Code Act, 1992, as amended);
 - b) Notwithstanding section 4.13.4 of the Zoning By-Law, the Required Parking Ratios of establishments for which a Restaurant or Bar Patio has been approved under the Temporary Patio Program are suspended for the duration of this Temporary Use By-Law;
 - c) Notwithstanding section 4.17.2.8 of the Zoning By-Law, a Restaurant or Bar Patio may have a temporary covering which exceeds fifty percent (50%) of the total area of the Restaurant or Bar Patio, provided, however, that:
 - i) If the Restaurant or Bar Patio is covered by a roof, canopy, tent, awning or other element, at least two (2) full sides of the outdoor dining area must be open to the outdoors and must not be substantially blocked by any walls or other impermeable physical barriers; and/or
 - ii) If the Restaurant or Bar Patio is equipped with a retractable roof, the roof must be fully retracted and at least one full side of the outdoor dining area must be open to the outdoors and must not be substantially blocked by any walls or other impermeable physical barriers.

LOCATION

3. This Temporary Use By-Law applies to all locations within the City of Guelph in which Outdoor Patios are permitted pursuant to section 4.17.2 of the Zoning By-Law.

EXPIRY

4. This Temporary Use By-Law expires on November 1, 2020 unless extended by further resolution of Council.

Passed this [day of the month] day of [month], 20XX.

Cam Guthrie, Mayor

**Stephen O'Brien, City Clerk [or]
Dylan McMahon, Deputy City Clerk**